

Comments

Board of Supervisors County of San Bernardino



January 12, 1999

Mr. Richard Martin, Superintendent
Death Valley National Park
Death Valley, CA 92328

Dear Superintendent Martin:

Thank you for the opportunity to provide comments and input into the Draft General Management Plan for Death Valley National Park.

We have participated in the planning process to the extent of having representatives at both the meetings of the Advisory Commission and to the various scoping and briefing meetings that you have held throughout the region. We appreciate the efforts at outreach that the Service has made, both with regard to this plan and that for the Mojave National Preserve.

I have provided comments to the letter that you will receive from Advisory Commission Chairman Wayne Schulz. I do not know the extent to which he will incorporate my thoughts, as they relate to deliberations of the Commission. I did request the option that members would not be constrained from making individual comments on items of special concern or which were not deliberated by the Commission.

While only a small area of the Park lies within San Bernardino County, we do have some concerns over the Draft Plan as it applies to lands within the County.

- SBBS1 We do have an overall concern with the GMP format. In some cases the Draft Plan is quite detailed, in others it lacks specifics and lays out a need to do further planning. With regard to dealing with some issues, such as abandoned mines, it is difficult to provide any input since we do not have a picture of those with historic significance - - i.e., which might be closed, what reclamation be done, and the extent to which the
- SBBS2 Federal government would undertake financial responsibility for this work. I feel that in many cases the Service should have delayed the final plan until they could produce a more clear and detailed plan. At a minimum, this comment applies to: sand and gravel—deferred for a road management plan; wilderness management—deferred for the backcountry management plan; land acquisition is covered in the Land Protection

KATHY A. DAVIS
SUPERVISOR, FIRST DISTRICT



Responses

SBBS1. See comment CDFG3.

SBBS2. See comment CDFG3. Implementation of the “Land Protection Plan” is predicated on the appropriation of funding from Congress. Requests for funding will be pursued as soon as possible after the “Land Protection Plan” is approved.

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	Plan (Appendix B) without a target estimate of implementation; and grazing management—deferred to later range management planning.
SBBS3	<p>1. The proposed action provides that Death Valley would seek Class 1 designation for Air Quality. At the Commission meeting the Service personnel stated that this would have no effect upon the existing Trona operations at Searles Lake. To the extent that the IMC Chemical Company (formerly North American) can apply new and economic technology to reduce emissions, we think this is laudable. We believe that the plan should state explicitly that the Company is exempted or will not be required to undertake remediation or modifications which would adversely affect the economic viability of their operations.</p> <p>2. We have serious concerns over the Service's handling of mining.</p>
SBBS4	<ul style="list-style-type: none"> The fact that valid existing rights, including valid mining claims, should be included in the listing of Planning Constraints and Mandates, since it was specifically provided in the CDPA (Section 305).
SBBS5	<ul style="list-style-type: none"> We agree with the fact and importance of mining history, past and present, listed as significant (page 30). We disagree with the inconsistency presented under Management Objectives (page 32) in which the Service would "prohibit or minimize...adverse effects of mining..." and also "provide for "the eventual...phaseout of mining." We believe that latter provision is inappropriate and does not reflect Congressional intent. In addition, what is "adverse?" It would appear that the Service has an opportunity to not only recognize existing rights, but also to provide additional interpretation of the mining history of the region, recognizing that that history continues to the present.
SBBS6	<ul style="list-style-type: none"> There is no specificity as to the #5 priority of land acquisition (Appendix B, page 243) related to "remote small claim groups." Which claims? What validity? We find, further, that the list of Unpatented claims (Appendix B-2, page 261-2) may be incomplete.
SBBS7	<ul style="list-style-type: none"> While we did not expect the Service's position to appear in the GMP regarding the Rainbow Talc Mine, we believe that the GMP should lay out a consistent and timely process for addressing Plans of Operations and requests for authorizations to undertake activity on claims determined to be "valid."
SBBS8	<p>3. We do not agree with the Service's decision not to address R.S. 2477 assertions (page 47). While we recognize that the Service may be under Secretarial restrictions to not consider such assertions, we believe that are "valid existing rights" and therefore protected under Section 305 of the California Desert Protection Act. We believe that the term on page 47 "route determinations" should be replaced with the term "assertions." San Bernardino County included the road into the Rainbow</p>

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- SBBS3. The designation of the Park as a Class I area is a process that is managed by the California Air Resources Board. If redesignation of the Park were considered by the state, potential effects on existing developments would be highlighted during that process. The state would be the entity to exempt existing operations or require new modifications.
- SBBS4. Reference to section 305 of the California Desert Protection Act has been added. This section of the act withdraws the Park from further entry under the various mining and mineral laws. Valid existing rights are recognized and operations considered under NPS regulations promulgated after the Mining in the Parks Act of 1976. This act recognized that mining operations in parks should be conducted so as to prevent or minimize damage to park resources.
- SBBS5. Mining has a historic component and its significance is detailed on page 30 of the 1998 draft plan. Mining as a contemporary activity is allowed under the Mining in the Parks Act, subject to NPS regulations (36 CFR Part 9). Those regulations prohibit mining activity that would adversely affect park resources. The approval standards (36 CFR 9.10) vary depending upon the date and status of surface patent, but generally operations that significantly injure or negatively impact park resources would not be permitted.
- SBBS6. The priority listing on page 243 of the draft plan attempts to provide some rationale for acquisition, but is not a hard and fast list. The factors on page 242 would be considered in trying to determine priority of one claim over another. Pages 230 and 231 of the 1998 draft plan provides a description of the remote small claim groups referred to on page 243. The list of unpatented claims will be updated.
- SBBS7. The *Environmental Impact Statement / General Management Plan* would not be the appropriate document for this issue. NPS regulations at 36 CFR Part 9 govern mining operations and provide the process for operators to submit mining plans

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Talc Mine in its assertion resolution (No. 98-sxxx) dated July 24, 1998. We will be writing you on this matter in separate correspondence.

- 4 We also do not agree with your decision not to consider Park Boundary and Wilderness Boundary issues under the Land Ownership and Use Section (pages 81-84). While we recognize that any change would require corrective legislation, we feel that the Service has overlooked an opportunity to overcome controversy by not using the GMP as a vehicle to reflect the experience gained over the past 4 years under the CDPA.

SBBS9

The statement on page 81 indicating the "scrutiny and public debate" is simply not true. The changes made during legislative consideration in the Death Valley boundaries were minor, and related to efforts made on the west side. Most comment regarded the general expansion, and little or testimony or input related to specific changes. The Baumunks and Jacksons, who held the Rainbow and Caliente Mining Claims, made no input. Rather, they continued to work with BLM to secure authorization for their plan of operation up to the date of passage of the Act, not believing that the Bill would pass and adversely affect their existing rights.

SBBS10

We suggest that a proposal in the GMP to include a cherry-stem boundary adjustment to the Park, or wilderness, e.g. like the exclusion made at the north end of the expanded Park, to exclude these valid claims, could overcome much of the controversy and expense associated with their proposal to mine.

SBBS11

5. We generally agree with the proposals related to visitor use, camping and other activities in the Park. We have so indicated in our endorsement of the letter that you will receive from Advisory Commissioner Schulz.

Sincerely,



Kathy A. Davis
First District Supervisor
Member, Death Valley Advisory Commission

Cc: Wayne Schulz, Chairman, DVNP Advisory Commission
Jerry Lewis
Mr. and Mrs. Ed Baumunk
Mike Dorame, Fifth District Supervisor, Inyo County
Valery Pilmer, Director Land Use Services, San Bernardino County
Ken Miller, Director Transportation and Flood Control, San Bernardino County

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for consideration. The Park Service has also developed a Guide to Claimants to assist in their understanding of the process and regulatory requirements. Length of the process has mostly to do with the adequacy of the plan of operation and the impacts of the proposal, which determine the environmental review requirements the Park must follow.

SBBS8. RS-2477 assertion determinations are not planning decisions. Assertions will be dealt with through a process provided by the Department of the Interior or through legal remedies. Section 305 applies only to valid existing mineral rights obtained under the various mining laws. However, section 708 does ensure private landowners adequate access for reasonable use and enjoyment of property.

SBBS9. NPS criteria for examining potential boundary modifications in a general management plan are done with the purpose of adding lands with significant resources or opportunities or that are critical to fulfilling the Park mission. To create a boundary change proposal to exclude a mine from the Park or from wilderness to allow its development would not fit the NPS criteria for boundary adjustments. The National Park Service and claimants have reached agreement on purchase of the claims at Rainbow Talc Mine.

SBBS10. See comment SBBS9. We disagree that proposing a cherry-stem through wilderness to the Rainbow Talc mine would overcome the controversy surrounding this potential mine development. Such a proposal would be highly controversial. Purchase of the mine by the National Park Service seems to be the most appropriate course of action under the circumstances.

SBBS11. Comment noted.